

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DEREK MILLER,	§	
	§	No. 288, 2012
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0610023116
Appellee.	§	

Submitted: June 6, 2012

Decided: August 9, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

O R D E R

This 9th day of August 2012, having carefully considered the appellant’s opening brief and the appellee’s motion to affirm, we conclude that the Superior Court’s order dated May 10, 2012 should be affirmed.¹ The Superior Court did not err when determining that the appellant’s “second or third” motion for postconviction relief under Superior Court Criminal Rule 61 was repetitive² and formerly adjudicated.³ On appeal, the Court has likewise determined that the appellant’s repetitive postconviction

¹ *State v. Miller*, 2012 WL 2564132 (Del. Super.).

² *See* Del. Super. Ct. Crim. R. 61(i)(2) (barring any ground for relief not asserted in a prior postconviction proceeding).

³ *See* Del. Super. Ct. Crim. R. 61(i)(4) (barring formerly adjudicated claims).

motion raising formerly adjudicated claims does not warrant further consideration “in the interest of justice” or because of “a miscarriage of justice.”⁴

NOW, THEREFORE, IT IS ORDERED that the appellee’s motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

⁴ See Del. Super. Ct. Crim. R. 61(i)(2), (4) (barring claims unless consideration is warranted in the interest of justice); Del. Super. Ct. Crim. R. 61(i)(5) (providing that the procedural bar of Rule 61(i)(2) shall not apply to a colorable claim of a miscarriage of justice because of a constitutional violation).